

PREVAILED

Roll Call No. \_\_\_\_\_

FAILED

Ayes \_\_\_\_\_

WITHDRAWN

Noes \_\_\_\_\_

RULED OUT OF ORDER

## HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that House Bill 1979 be amended to read as follows:

- 1 Page 4, line 19, delete "subsection (1)(b)." and insert "**section 1(b)**
- 2 **of this chapter.**".
- 3 Page 4, line 21, delete "subsection (1)(a)" and insert "**section 1(a)**".
- 4 Page 4, line 21, delete "an" and insert "**a**".
- 5 Page 4, line 22, delete "application" and insert "**petition**".
- 6 Page 4, line 24, delete "IC 8-1-8.5" and insert "**IC 8-1-2.5**".
- 7 Page 4, line 25, delete "IC 8-1-2.5:" and insert "**IC 8-1-8.5:**".
- 8 Page 4, between lines 30 and 31, begin a new line block indented
- 9 and insert:
- 10 "**(6) The filing of a remonstrance under section 4 of this**
- 11 **chapter.**".
- 12 Page 4, line 31, after "4." insert "**Not later than seven (7) days**
- 13 **after filing a petition under IC 8-1-2.5 or IC 8-1-8.5, a merchant**
- 14 **power plant shall:**
- 15 **(1) send notice of the petition, including a description of the**
- 16 **facility or proposed facility, by United States mail to all**
- 17 **record owners of real property located within one (1) mile of**
- 18 **the proposed facility; and**
- 19 **(2) cause notice of the petition, including a description of the**
- 20 **facility or proposed facility, to be published in a newspaper of**
- 21 **general circulation in each county in which the facility or**
- 22 **proposed facility is or will be located.**
- 23 **Sec. 5. (a) Not later than forty-five (45) days after receiving**
- 24 **notice under section 4(1) of this chapter, a majority of the record**

owners of real property located within one (1) mile of the proposed facility may file with the commission a written remonstrance. The remonstrance must be accompanied by a copy of the notice received under section 4(1) and state the reason why the petition should be denied.

(b) Upon receipt of the remonstrance, the commission shall determine whether the remonstrance has the necessary signatures. In determining the total number of record owners of real property located within one (1) mile of the proposed facility, the names appearing on the tax duplicate for property located within one (1) mile of the proposed facility constitute prima facie evidence of ownership. Only one (1) person having an interest in each single property, as evidenced by the tax duplicate, is considered a landowner for purposes of this section.

(c) If the commission determines that the remonstrance is sufficient, it shall fix a time, not later than thirty (30) days after its determination, for a hearing on the remonstrance. The hearing required by this subsection must be held:

(1) before or at the same time as the hearing required under IC 8-1-8.5-5(b); and

(2) before the commission issues a certificate of public convenience and necessity under IC 8-1-8.5.

(d) At least ten (10) days before the scheduled hearing, notice of the hearing must be served by first class mail on:

(1) all record owners of property located within one (1) mile of the proposed facility;

(2) the merchant power plant

(3) concerned regulatory agencies, as determined by the commission; and

(4) zoning or planning authorities for the:

(A) county; and

(B) municipality, if any;

where the facility or proposed facility is or will be located.

**Sec. 6. (a)** The commission shall conduct a hearing required under section 5 of this chapter as a controversial proceeding subject to IC 8-1-1-5.

**(b)** The parties to the hearing include the following:

(1) The merchant power plant.

(2) A person entitled to notice under section 5(d)(1) of this chapter if, before the date of the hearing, the person files with the commission a notice of the person's intent to participate in the hearing.

(3) The office of the utility consumer counselor.

(4) Any other person if, before the date of the hearing, the person petitions the commission for leave to intervene as a party and the commission grants the petition.

**(c)** A concerned regulatory agency that appears on record at the

1 hearing must state whether the facility or proposed facility meets  
 2 the agency's permit or licensing requirements. If the facility or  
 3 proposed facility does not meet the agency's requirements, the  
 4 agency must recommend changes that would bring the facility or  
 5 proposed facility in compliance with the agency's permit or  
 6 licensing requirements. The commission may not approve a  
 7 petition under IC 8-1-2.5 or IC 8-1-8.5 for a facility or proposed  
 8 facility that does not meet the permit or licensing requirements of  
 9 a concerned regulatory agency.

10 (d) Zoning authorities for the:

11 (1) county; or

12 (2) municipality, if any;

13 where the facility or proposed facility is or will be located may  
 14 appear on record at the hearing and present written or oral  
 15 testimony concerning whether the facility or proposed facility  
 16 meets local zoning requirements.

17 (e) The commission shall accept written or oral testimony from  
 18 any person who appears at the public hearing, but the right to call  
 19 and examine witnesses is reserved for the parties to the hearing.

20 (f) The commission shall make a record of the hearing and all  
 21 testimony received. The commission shall make the record  
 22 available for public inspection.

23 Sec. 7. (a) Not later than thirty (30) days after conducting the  
 24 hearing required under section 5(c) of this chapter, the commission  
 25 shall render a decision on the remonstrance after giving full  
 26 consideration to the evidence presented at the hearing. The  
 27 decision of the commission is final.

28 (b) From the time during which a remonstrance may be filed  
 29 until the commission renders a decision under subsection (a), the  
 30 commission may not act upon a merchant power plant's petition  
 31 under IC 8-1-2.5 or IC 8-1-8.5.

32 (c) If the commission decides against the remonstrance, the  
 33 commission may act at its discretion upon the merchant power  
 34 plant's petition. If the commission decides in favor of the  
 35 remonstrance and denies the petition, the merchant power plant  
 36 may not file a petition under IC 8-1-2.5 or IC 8-1-8.5 during the  
 37 twelve (12) month period beginning on the date of the commission's  
 38 ruling under subsection (a).

39 Sec. 8. "

40 Page 4, line 40, delete "5." and insert "9."

41 Page 5, line 2, delete "the commission" and insert "the

- 1 **commission".**
- 2 Page 5, line 18, delete "IC 8-1-8.3-3(2)(C)" and insert
- 3 **"IC 8-1-8.3-3(2)(C)".**  
(Reference is to HB 1979 as printed February 28, 2001.)

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Representative Munson